

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOHN MICHAEL ALLINGER,

Plaintiff,

v.

E. K. McDANIEL, et al.,

Defendants.

3:06-cv-00139-LRH (VPC)

ORDER

Before this Court is Report and Recommendation of U.S. Magistrate Judge Valerie P. Cooke (#93¹) entered on October 27, 2008, recommending Plaintiff's Motion for Summary Judgment (#74) filed on May 23, 2008, be denied. Plaintiff filed his Objections to Proposed Findings of Fact and Recommendations Pursuant to 28 U.S.C.A. § 636 (#94) on November 6, 2008; Defendants filed their Response to Plaintiff's Objections to Report and Recommendation of U.S. Magistrate Judge on November 24, 2008 (#96); Plaintiff filed a Reply to Defendants' Response to Plaintiff's Objections to Proposed Findings of Fact and Recommendations and Motion to Strike (#97) on December 4, 2008, and Defendants filed their Opposition to Plaintiff's Motion to Strike (#99) on December 15, 2008, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 1B 3-2 of the Rules of Practice of the United States District Court for the District of Nevada.

¹Refers to court's docket number.

1 The court has conducted its *de novo* review in this case, has fully considered the objections
2 of the Plaintiff, the pleadings and memoranda of the parties and other relevant matters of record
3 pursuant to 28 U.S.C. § 636 (b) (1) and Local Rule IB 3-2. The Court determines that the Magistrate
4 Judge's Report and Recommendation (#93) entered on October 27, 2008, should be adopted and
5 accepted.

6 The court has reviewed Plaintiff's motion to strike (#97). Defendants' response was in
7 compliance with the deadline of November 22, 2008, set forth on the docket. November 22, 2008, fell
8 on a Saturday and pursuant to Fed. R. Civ. P. 6, the last day of the period shall be included ". . . unless
9 it is a Saturday, Sunday, legal holiday" Plaintiff's motion to strike (#97) is denied as moot.

10 IT IS THEREFORE ORDERED that the Magistrate Judge's Report and Recommendation
11 (#93) entered on October 27, 2008, is adopted and accepted, and Plaintiff's Motion for Summary
12 Judgment (#74) is DENIED.

13 IT IS FURTHER ORDERED that Plaintiff's Motion to Strike (#97) is DENIED as moot.

14 IT IS FURTHER ORDERED that the parties shall lodge their proposed joint pretrial order
15 within thirty (30) days from entry of this Order. See Local Rules 16-4 and 26-1 (e)(5).

16 IT IS SO ORDERED.

17 DATED this 4th day of March, 2009.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE
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